

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

HOWARD JOHNSON  
INTERNATIONAL, INC., a Delaware  
corporation,

Plaintiff,

vs.

85 FIFTH STREET ASSOCIATES, LLC,  
a Washington limited liability company;  
85 FIFTH STREET ASSOCIATES, L. P.,  
a Washington limited partnership; and  
NORTHWEST LODGING, INC., a  
Washington corporation; LAWRENCE P.  
HORWITZ, individually; and ANDRE S.  
TATIBOUET, individually,

Defendants.

No. CV-04-5009-FVS

ORDER GRANTING PLAINTIFF'S  
MOTION FOR SUMMARY  
JUDGMENT AGAINST NON-DEBTOR  
DEFENDANTS

THIS MATTER came on regularly before the above-entitled Court on the motion of Plaintiff, Howard Johnson International, Inc. ("HJI") against defendants 85 Fifth Street Associates LLC and 85 Fifth Street Associates LP for all amounts due and owing under that certain License Agreement dated June 19, 1997; and against Northwest Lodging, Inc. for all amounts due and owing under the Development Agreement dated April 15, 1993. The Court considered the following materials:

1. Plaintiff's Motion for Summary Judgment;
2. Plaintiff's Concise Statement of Material Facts;
3. Memorandum in Support of Plaintiff's Motion for Summary Judgment;
4. Declaration of Kathy Cox in Support Plaintiff's Motion for Summary Judgment and exhibits thereto;

1 and the records and pleadings herein, and the Court having considered all arguments as  
2 presented by counsel for Plaintiff and Defendants;

3 NOW THEREFORE, being fully advised in the premises, the Court hereby  
4 GRANTS Plaintiff's Motion for Summary Judgment, and it is hereby

5 IT IS HEREBY ORDERED:

6 1. Defendant 85 Fifth Street Associates, LLC is liable to HJI on the License  
7 Agreement in the principal amount of \$77,603.75, plus interest in the amount of  
8 \$25,870.73 through August 5, 2005;

9 2. Defendant 85 Fifth Street Associates, LLC is liable to HJI for liquidated  
10 damages under the License Agreement in the principal amount of \$100,000, plus  
11 interest in the amount of \$33,189.37 through August 5, 2005;

12 3. Defendants 85 Fifth Street Associates, LLC and Northwest Lodging, Inc.  
13 are jointly and severally liable to HJI on the Development Agreement in the amount of  
14 \$51,600.00;

15 4. Defendant 85 Fifth Street Associates, L.P. is liable to HJI for all amounts  
16 owed by 85 Fifth Street Associates, LLC to HJI, as detailed herein. That liability is  
17 joint and several with the liability of 85 Fifth Street Associates, LLC;

18 5. The amounts owed by 85 Fifth Street Associates, LLC, 85 Fifth Street  
19 Associates, LP, and Northwest Lodging, Inc. to HJI shall bear interest at the rate of  
20 1.5% per month from the date of this order until paid in full.

21 6. There being no evidence to support Defendants' counterclaim asserted  
22 against HJI, that counterclaim is dismissed with prejudice.

23 7. This order shall have no effect on the claims asserted against defendants  
24 Horwitz and Tatibouet, which claims are stayed by those defendants' respective  
25 bankruptcy proceedings.  
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1           8.     The plaintiff's motion for summary judgment (Ct. Rec. 30 is granted to  
2 the extent indicated above.

3           9.     The District Court Executive is directed to enter judgment.

4           DATED this 23rd day of August, 2005.

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6                               S/ Fred Van Sickle  
7                               Fred Van Sickle  
8                               United States District Judge  
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